

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

KEVIN DOUGLAS MCGEE,

Plaintiff,

v.

DAVID SCHMITT,

Defendant.

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No. 4:19-cv-2477-CDP

MEMORANDUM AND ORDER

This matter is before me upon review of a document titled “1983 Memorandum & Petition,” filed by plaintiff Kevin Douglas McGee. It appears plaintiff wishes to bring an action pursuant to 42 U.S.C. § 1983. However, he did not submit a pleading on the proper form as required by the Local Rules of this Court. *See* E.D. Mo. Local Rule 2.06(A). Additionally, he neither paid the filing fee nor sought leave to proceed in forma pauperis. *See* 28 U.S.C. § 1915(a). In consideration of plaintiff’s pro se status, I will give him 30 days to either pay the filing fee or seek leave to proceed in forma pauperis, and to file an amended complaint.

Plaintiff is warned that the filing of an amended complaint will replace the original. *E.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation*, 396 F.3d 922, 928 (8th Cir. 2005). Plaintiff must submit the amended complaint on a court-provided form, and the amended complaint must comply with Rules 8 and 10 of the Federal Rules of Civil Procedure. Rule 8 requires that the amended complaint contain a short and plain statement of the claim showing entitlement to relief, and it also requires each averment of a pleading to be simple, concise and direct. Rule 10 requires plaintiff to state his claims in separately numbered paragraphs, each limited as far as practicable to a single set of circumstances.

In the “Caption” section of the amended complaint, plaintiff must state the first and last name, to the extent he knows it, of each defendant he wishes to sue. Plaintiff should also indicate whether he intends to sue each defendant in his or her individual capacity, official capacity, or both.¹

In the “Statement of Claim” section, plaintiff should begin by writing the first defendant’s name. In separate, numbered paragraphs under that name, plaintiff should set forth specific factual allegations about what that defendant did, as well as the constitutional right or rights that defendant violated. Plaintiff should only include claims that arise out of the same transaction or occurrence, or simply put, claims that are related to each other. *See* Fed. R. Civ. P. 20(a)(2). Alternatively, plaintiff may choose a single defendant and set forth as many claims as he has against that defendant. *See* Fed. R. Civ. P. 18(a).

If plaintiff is suing more than one defendant, he should proceed in the same manner with each one, separately writing each individual defendant’s name and, under that name, in numbered paragraphs, the factual allegations specific to that particular defendant and the right(s) that defendant violated. Plaintiff should avoid naming anyone as a defendant unless that person is directly related to his claim for relief. Plaintiff’s failure to make specific and actionable allegations against any defendant will result in that defendant’s dismissal from this case.

Accordingly,

IT IS HEREBY ORDERED that the Clerk is directed to mail to plaintiff a copy of the Court’s Civil Complaint form.

IT IS FURTHER ORDERED that plaintiff must file an amended complaint on the Court’s form within thirty (30) days of the date of this Order.

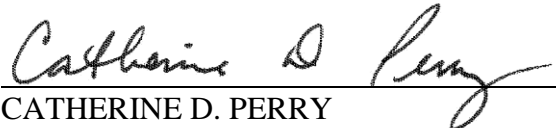
¹ The failure to sue a defendant in his or her individual capacity may result in the dismissal of that defendant.

IT IS FURTHER ORDERED that, within 30 days of the date of this Order, plaintiff must either pay the \$400 filing fee **or** submit a completed Application to Proceed in District Court without Prepaying Fees or Costs form.

IT IS FURTHER ORDERED that the Clerk is directed to mail to plaintiff a copy of the Court's Application to Proceed in District Court without Prepaying Fees or Costs form.

IT IS FURTHER ORDERED that if plaintiff fails to timely comply with this Order, this case will be dismissed without prejudice and without further notice.

Dated this 5th day of September, 2019.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE